IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3575 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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CHIEF EXECUTIVE SURAT ELECTRI-CITY CO LTD

Versus

SOMIBEN DEVJIBHAI MEWADA (WIDOW OF DEVJIBHAI MEWADA)

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Appearance:

1. Special Civil Application No. 3575 of 2003

MR PS CHARI for Petitioner No. 1

MS HINA DESAI for Respondent No. 1

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CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 13/08/2004

ORAL JUDGEMENT

By order dated 20th November, 2003, this court has issued rule and granted ad interim relief in terms of

para 7(B). Accordingly, the matter is placed before this court for confirmation / vacating of interim relief. The counsels for the parties, however, agree that the petition may be heard finally. Accordingly, the same is taken up for final disposal today.

In the present petition, the petitioner has challenged the order passed by the Labour Court dated 25.6.1997 by which the departmental inquiry conducted by the petitioner employer against the respondent workman was held to be illegal being in violation of the principles of natural justice. The petitioner has also challenged the order passed by the Industrial Court dated 18.9.2002 by which the above mentioned order of the Labour Court was confirmed and the appeal of the petitioner was rejected.

Admittedly, thus the orders under challenge before this court are passed by the courts below at an interlocutory stage. It is held by the Supreme Court in the decision in the case of Cooper Engineering Ltd. v. P.P. Mundhe reported in AIR 1975 SC page 1900 that in a case where the Labour Court decides the legality of the departmental inquiry conducted by the employer, there will be no justification for any party to stall the final adjudication of the dispute by the Labour Court by questioning its decision with regard to the preliminary issue when the matter, if, worthy can be agitated even after the final award and it may be legitimate for the High Court to refuse to intervene at that stage. Based on the said decision of the Hon'ble Supreme Court, Division Bench of our High Court in Letters Patent Appeal No.655 of 2002 in SCA No.1510 of 2001 decided on 17.3.2003, had taken a similar view and approved decision of the learned Single Judge in another matter which was reported in 1998 (3) LLN page 795 (Dinesh Mills Ltd v. Kedarnath R. Pande). On the basis of the above decisions, this court had also disposed of Civil Application No.8754 of 2003 and allied matters by judgment dated 4.7.2004. In view of the above decisions I am of the view that the present petition is not maintainable at this stage and it will be open for the petitioners to canvas all the arguments after the main dispute is decided and disposed of by the Labour Court. The reliance placed by the learned counsel for the petitioner on the decision of the Rajasthan High Court reported in 1994 (69) FLR page 68 is of no use to the petitioner since, I find that the decision of the Hon'ble Supreme Court of India in the case of Cooper Engineering (supra) was not cited before the court. When the decision of the Supreme Court is clear in this regard and

when the Division Bench of this High Court has already taken a view that the petition, at interlocutory stage, would not be maintainable, reliance on the said decision is of no avail to the petitioner.

In view of this discussion, I find that the petition is not required to be entertained at this stage and the same is, therefore, rejected. Rule is discharged. No order as to costs.

sudhir [ Akil Kureshi, J.]